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Special Commission 3
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SUGGESTED AMENDMENTS TO THE DRAFT REGULATIONS ON PROSPECTING, EXPLORATION AND EXPLOITATION OF POLYMETALLIC NODULES IN THE AREA

PART X. ACCOUNTING PRINCIPLES AND PROCEDURE

(LOS/PCN/SCN.3/WP.6/Add.7)

Proposals submitted by the European Economic Community on behalf of the Community and its member States

Article 2 (Use of terms)

Paragraph 1, first sentence

"(1) 'Accounting Manual' means a manual, approved by the Secretary-General, containing the chart of accounts and instructions for the recording of transactions of operations and the preparation and distribution of financial reports."

In paragraph 2 the phrase "analyses, working papers and reports" should be deleted.

Paragraph 3: second sentence should be deleted.

Article 81 (Accounting principles)*

Paragraph 1 should read as follows:

"(1) All books and accounting records shall be kept, and all costs, expenditures, proceeds and revenues determined and recorded, in conformity with generally recognized accounting principles approved by the Council on the recommendation of the Finance Committee."

Paragraph 2 should read as follows:

"The Council on the recommendation of the Finance Committee shall from time to time review such principles and practices to ensure that they are generally recognized and consistent with such accepted practices."

Paragraph 3 should read as follows:

"All costs, expenditures, proceeds and revenues and all determinations of prices and values referred to in this part shall be based on market prices. Charges for transactions with any person, firm or company that, directly or indirectly, controls, is controlled by or is under common control with a contractor, for services, materials, equipment and other costs, shall be at actual cost on arm's length prices and such other terms and conditions as would have applied in a normal commercial manner in the ordinary course of business had the transactions occurred between unrelated parties or if the parties were not in any special relationship."

Paragraph 4 (new)

"The determination of arm's length prices shall be guided by the principles adopted for, and the interpretation given to, arm's length transactions by the relevant bodies of the United Nations and other international organizations."

Paragraph 5 (new)

"In all other cases prices shall be determined on the basis of actual costs."

Article 137 (Scope of this Part)

Article 137 should be moved to become paragraph 3 of article 70 and should read as follows:

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* Text of Article 81 is in document LOS/PCN/SCN.3/WP.6/Add.2/Rev.1.

"The provisions on accounting contained in this Part provide guidance on the system of financial recording for those contractors that choose in accordance with article 13 (4) of Annex III LOSC to pay a combination of a production charge and a share of net proceeds, to record all financial transactions, funds, materials and equipment necessary to determine the net proceeds and the share that has to be paid to the Authority."

Article 138 (Accounting principles)

Should be deleted.

Article 139 (Currencies)

Should be deleted.

Article 140 (Accounts and manuals)

This article should be renumbered as article 80A and should read as follows:

"(1) Contractors that chose to pay a combination of a production charge and a share of net proceeds shall, together with their decision on the mode of payment, submit for approval by the Finance Committee a comprehensive chart of accounts and related account definitions, together with the Accounting Manual for use under the contract.

"(2) A complete set of books of accounts shall be kept at the relevant contractor's principal place of business. If a relevant contractor has two or more principal places of business, he shall determine at which principal place of business a complete set of books of account is kept and inform the Authority accordingly."

Article 141 (Accounting for materials and supplies)

Article 141 should be renumbered as article 81A and amended as follows:

In paragraph 4 "Authority" should be replaced by "Secretary-General".

Paragraph 6 should be deleted.

Paragraph 7 should be renumbered as paragraph 6 and should read as follows: "Each contractor shall conduct, once a year, or, if special circumstances warrant it, upon the request of the Secretary-General, a physical inventory of the controllable materials which it maintains. The inventory shall be transmitted to the Secretary-General."

In paragraph 8 the phrase ", if feasible," should be deleted. Paragraph 8 should be renumbered as paragraph 7. And "Authority" should be replaced by "Secretary-General".

In paragraph 9, third sentence, the phrase "for approval" should be deleted. Paragraph 9 should be renumbered as paragraph 8. And "Authority" should be replaced by "Secretary-General".

Article 142 (Accounting for equipment)

Article 142 should be renumbered as article 81B and amended as follows:

In paragraph 2, between the words "or" and "upon" the following phrase should be inserted: ", if special circumstances warrant it,". And "Authority" should be replaced by "Secretary-General".

In paragraph 3 "Authority" should be replaced by "Secretary-General".

In paragraph 4, third sentence, the phrase "for approval" should be deleted. And "Authority" should be replaced by "Secretary-General".

Article 143 (Personnel costs)

To be deleted.

Article 144 (Charges for training programmes)

To be deleted.

Article 145 (Charges for transfer of data)

To be deleted.

Article 146 (Charges for third-party contracts)

To be deleted.

Article 147 (Charges for affiliates)

To be deleted.

Article 148 (Rental payments)

To be deleted.

Article 149 (Insurance costs and losses)

To be deleted.

Article 150 (Legal costs)

To be deleted.

Article 151 (Overhead and administrative costs)

This article is to be renumbered as article 81C.

Article 152 (Credits)

To be deleted.

Article 153 (Duplication of costs, charges and credits)

To be deleted.

Article 154 (Financial reports)

Should be renumbered as article 81D and should read as follows:

"1. Each relevant contractor shall prepare an annual financial report.

"2. Each report shall consist of a profit-and-loss statement, a balance sheet and the calculation of the Authority's share of net proceeds for that year.

"3. The form of the report may be prescribed by the Secretary-General.

"4. Each report shall be a full and accurate financial report for the year covered.

"5. Each annual financial report shall be sent to the Secretary-General within 60 days after the end of each calendar year.

"6. Upon receipt of the financial report the Secretary-General shall make it available to the accountant, selected in accordance with article 85.

"7. The accountant shall verify whether the profit-and-loss statement, the balance sheet and the calculation of the Authority's share of net proceeds are in conformity with the books, accounting records and basic documents as well as with the present regulations.

"8. The accountant shall report his findings to the Secretary-General and the contractor within 60 days.

"9. If the accountant finds that the financial report and the calculation of the Authority's share of net proceeds is not in conformity with the present regulations and if the contractor does not agree with the findings of the accountant, the matter shall be discussed between the Secretary-General, the contractor and the accountants.

"10. If no agreement is reached within 30 days, the provision of article 87 on the settlement of disputes shall apply."

Article 155 (Inspection and audit)

Should be renumbered as article 85A and amended as follows:

Paragraph 1 should be deleted.

Paragraph 5 should be deleted.

Paragraph 7 should be deleted.

Article 156 (Retention of books, records and documents)

Should be renumbered as article 81D and amended as follows:

In paragraph 1 the reference to article 155 should be a reference to article 85A.

In paragraph 2 the reference to article 154 should be a reference to article 81C.

Article 157 (Enterprise)

Should be renumbered as article 87A and should read as follows:

"The accounting regulations in this part apply to the activities of the Enterprise in the Area if it chooses in accordance with article 13 (4) of Annex III to pay a combination of a production charge and a share of net proceeds to the Authority."